



GARY R. HERBERT  
Governor

SPENCER J. COX  
Lieutenant Governor

# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

July 23, 2014

CERTIFIED RETURN RECEIPT  
7011 2970 0001 8828 2464

John Wilkinson  
Wilkinson Construction Co. Inc.  
1200 East 100 South  
Morgan, Utah 84050

Subject: Proposed Assessment for State Cessation Order No.MC-2014-60-01, Wilkinson Construction Co. Dugout Canyon Gravel Pit, S/047/0112, Uintah County, Utah

**Response Due By: 30 Days of Receipt**

Dear Mr. Wilkinson:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the assessment officer for assessing penalties under rule R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced cessation order. The cessation order was issued by Division inspector April Abate on March 24, 2014. Rule R647-7-103 et. seq. has been utilized to determine the proposed penalty of \$1,100.00. The enclosed worksheet outlines how the civil penalty was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this cessation order) has been considered in determining the facts surrounding the violation and the amount of this penalty.

Under rule R647-7-106, there are two informal appeal options available. You may appeal the fact of the violation, i.e. whether a violation occurred, the proposed civil penalty, or both. If you wish to informally appeal you should file a written request for an informal conference within thirty 30 days of receipt of this letter.

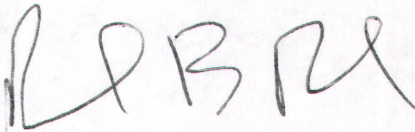



Page 2 of 7  
John Wilkinson  
S/047/0112  
July 23, 2014

The informal conference will be conducted by a Division-appointed conference officer. The informal conference for the fact of the violation is distinct from the informal assessment conference regarding the proposed penalty. If you wish to review both the fact of the violation and proposed penalty assessment, you should file a written request for an assessment conference within thirty (30) days of receipt of this letter. In this case, the assessment conference will be scheduled immediately following the review of the fact of the violation.

**If a timely request for review is not made, the fact of the violation will stand, the proposed penalty will become final, and will be due and payable within thirty (30) days of the date of this proposed assessment (by August 22, 2014).** Please remit payment to the Division, mail c/o Sheri Sasaki.

Sincerely,



 Lynn Kunzler  
Assessment Officer

LK: eb

Enclosure: Proposed assessment worksheet

cc: Sheri Sasaki, Accounting

Vickie Southwick, Exec. Sec.

P:\GROUPS\MINERALS\WP\M047-Uintah\S0470112-DugoutCanyonGravelPit\non-compliance\proassess-5992-04112014.doc



**WORKSHEET FOR ASSESSMENT OF PENALTIES**  
**DIVISION OF OIL, GAS & MINING**  
**Minerals Regulatory Program**

NOV / CO #: MC-2014-60-02 PERMIT: S/047/0012  
COMPANY / MINE Wilkinson Construction Co. Inc., / Dugout Canyon Gravel Pit  
ASSESSMENT DATE April 11, 2014  
ASSESSMENT OFFICER Lynn Kunzler

**I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)**

- A. Are there previous violations, which are not pending or vacated, which fall three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>None</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>
		<b>TOTAL HISTORY POINTS <u>0</u></b>

**II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)**

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector=s and operator=s statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event  
(assign points according to A or B)

**A. EVENT VIOLATIONS (Max 45 pts.)**

1. What is the event which the violated standard was designed to prevent?  
Conducting mining operations without proper permits, Injury to Public, Damage to Property, Environmental Harm
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>POINT RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS 20**



Page 4 of 7  
John Wilkinson  
S/047/0112  
July 23, 2014

**PROVIDE AN EXPLANATION OF POINTS:** Inspector indicated that mining activity has occurred prior to reclamation surety being provided. Points were assigned accordingly.



3. What is the extent of actual or potential damage: See comments under the 'Explanation of Points' below.

**ASSIGN DAMAGE POINTS( RANGE 0-25) 5**

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**PROVIDE AN EXPLANATION OF POINTS:** Operator had began operations prior to submitting the surety, disturbing about 1/2 of the area being permitted. So while ground was disturbed, damage is considered minimal since the Division had the opportunity to review the plan. The Plan had been determined to be complete, but was awaiting submittal of the bond for final approval. Points were assigned at the lower 1/5 of the range.

**B. ADMINISTRATIVE VIOLATIONS (Max 25pts)**

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? \_\_\_\_\_  
Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS \_\_\_\_\_**

**PROVIDE AN EXPLANATION OF POINTS: \_\_\_\_\_**

**TOTAL SERIOUSNESS POINTS (A or B) 25**

**III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)**

**A. IF SO--NO NEGLIGENCE; or, , IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

	Point Range
No Negligence (Was this an inadvertent violation which was unavoidable by the exercise of reasonable care?)	0
Negligence (was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care?)	1-15
Greater Degree of Fault (was this a failure to abate any violation or was economic gain realized by the permittee?)	16-30

STATE DEGREE OF NEGLIGENCE Neglegent

**ASSIGN NEGLIGENCE POINTS 5**

**PROVIDE AN EXPLANATION OF POINTS:** Inspector indicated that this was likely oversite on the part of the operator for providing the surety and contract. Points assigned at the lower 1/3 of range.



**IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)**

(Either A or B) (Does not apply to violations requiring no abatement measures, or violations not abated at the time of assessment)

**Has Violation Been Abated?** No The operator has only provided a portion of the required surety, not the full amount. He was also given the opportunity to amend his Notice to a reduced acreage so that the surety submitted would be adequate – he has not responded to this option. Therefore, Good faith points are not warranted.

- A. **EASY ABATEMENT** (The operator had onsite, the resources necessary to achieve compliance of the violated standard within the permit area.)

Immediate Compliance

(Immediately following the issuance of the NOV)

Rapid Compliance

(Permittee used diligence to abate the violation.  
Violation abated in less time than allotted.)

Normal Compliance

(Operator complied within the abatement period required,  
or, Operator requested an extension to abatement time)

Point Range

-11 to -20

-1 to -10

0

- B. **DIFFICULT ABATEMENT** (The operator did not have the resources at hand to achieve compliance, or the submission of plans was required prior to physical activity to achieve compliance.)

Rapid Compliance

(Permittee used diligence to abate the violation.  
Violation abated in less time than allotted.)

Normal Compliance

(Operator complied within the abatement period)

Extended Compliance

(Operator complied within the abatement period required,  
or, Operator requested an extension to abatement time)  
(Permittee took minimal actions for abatement to stay  
within the limits of the violation, or the plan submitted  
for abatement was incomplete.)

Point Range

-11 to -20

-1 to -10

0

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_

**ASSIGN GOOD FAITH POINTS** 0

**V. ASSESSMENT SUMMARY (R647-7-103.3)**

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>25</u>
III.	TOTAL NEGLIGENCE POINTS	<u>5</u>
IV.	TOTAL GOOD FAITH POINTS	<u>      </u>
	TOTAL ASSESSED POINTS	<u>30</u>



Page 7 of 7  
John Wilkinson  
S/047/0112  
July 23, 2014

**TOTAL ASSESSED FINE**

**\$ 1,100.00**